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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,069	06/22/2001	Mikko Ohvo	P281445	1005
909	7590	12/20/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			ABELSON, RONALD B	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

2666

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,069

Applicant(s)

OHVO ET AL.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14,18,19,21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5,8,9,12,21,25,26 and 30 is/are allowed.
- 6) ☐ Claim(s) 1,3,4,6,7,10,11,14,18,23 and 27-29 is/are rejected.
- 7) ☐ Claim(s) 19 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Objections

1. Claim 19 is objected to because of the following informalities: On line 4 "control the" should be changed to "control on the". Appropriate correction is required.
2. Claim 24 is objected to because of the following informalities: On line 4, "level a" should be replaced by "level on a". On line 8, it is not clear if the term "network node" refers to the "network element" or the "second network element". Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 3, 4, 6, and 7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 2 respectively of copending Application No. 11/149,180 in view of Freeberg (US 5,987,018).

This is a provisional obviousness-type double patenting rejection.

Regarding claim 1 of the instant application, 11/149,180 claim 1 teaches all the limitations of the claim except transmitting the flow control using in-channel signaling.

Freeburg teaches transmitting flow control / ACKs using an in-channel / inband signaling (inband, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination of 11/149,180 claim 1 by transmitting the flow control information using in-channel / inband signaling. This modification can be performed according to standards devised for in-band signaling. This would allow the system to transmit the signaling information on the same channel as the data and thus conserve bandwidth.

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Regarding claim 3 of the instant application, see claim 2 of 11/149,180.

Regarding claim 4 of the instant application, see claim 3 of 11/149,180.

Regarding claim 6 of the instant application, see claim 4 of 11/149,180.

Regarding claim 7 of the instant application, 11/149,180 claim 2 teaches all the limitations of the claim except transmitting the flow control using out-of-traffic-channel signaling.

Freeburg teaches transmitting flow control / ACKs using an out-of-traffic/band channel signaling (out-of-band, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of 11/149,180 claim 2 by transmitting the flow control information using out-of-band signaling. This modification can be performed according to standards devised for out-of-band signaling. This would benefit the system by not restricting data flow by having the data share a channel with the flow control information.

5. Claim 10 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 11/149,180 in view of 11/149,180 claim 18.

This is a provisional obviousness-type double patenting rejection.

Regarding claim 10 of the instant application, 11/149,180 claim 2 teaches all the limitations of the claim except the limitations of recognizing, sending, receiving, and activating.

Copending Application No. 11/149,180 claim 18 teaches the limitations of recognizing, sending, receiving, and activating.

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of claim 2 of copending Application No. 11/149,180 by starting flow control according to the teachings of 11/149,180 claim 18. This modification can be performed in software. This modification would benefit the system by providing a method for initiating flow control.

6. Claim 11 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 11/149,180 in view of 11/149,180 claim 18.

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This is a provisional obviousness-type double patenting rejection.

Regarding claim 11 of the instant application, 11/149,180 claim 2 teaches all the limitations of the claim except the limitations of recognizing, sending, receiving, and activating.

Copending Application No. 11/149,180 claim 18 teaches the limitations of recognizing, sending, receiving, and activating.

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of claim 2 of copending Application No. 11/149,180 by stopping flow control according to the teachings of 11/149,180 claim 18. This modification can be performed in software. This modification would benefit the system by providing a method for deactivating flow control.

7. Claims 14 and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 11/149,180 in view of Freeberg (US 5,987,018).

This is a provisional obviousness-type double patenting rejection.

Regarding claim 14 of the instant application, 11/149,180 claim 5 teaches all the limitations of the claim except transmitting the flow control using in-channel signaling.

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Freeburg teaches transmitting flow control / ACKs using an in-channel / inband signaling (inband, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of 11/149,180 claim 5 by transmitting the flow control information using in-channel / inband signaling. This modification can be performed according to standards devised for in-band signaling. This would allow the system to transmit the signaling information on the same channel as the data and thus conserve bandwidth.

Regarding claim 18 of the instant application, 11/149,180 claim 5 teaches all the limitations of the claim except transmitting the flow control using out-of-traffic-channel signaling.

Freeburg teaches transmitting flow control / ACKs using an out-of-traffic/band channel signaling (out-of-band, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system 11/149,180 claim 5 by transmitting the flow control information using out-of-band signaling. This modification can be performed according to standards devised for out-of-band signaling. This would benefit

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the system by not restricting data flow by having the data share a channel with the flow control information.

8. Claim 23 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 11/149,180. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claims are not word for word identical, there are no limitations in claim 23 of the instant application that are not found in claim 9 of copending Application No. 11/149,180.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claim 27 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 16 of copending Application No. 11/149,180 in view of 11/149,180 claim 15.

This is a provisional obviousness-type double patenting rejection.

Regarding claim 27 of the instant application, 11/149,180 claim 16 teaches all the limitations of the claim the first leg

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is at the air interface between a mobile station and one of said network elements.

Copending Application No. 11/149,180 claim 15 teaches claim the first leg is at the air interface between a mobile station and a network element.

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of 11/149,180 claim 16 by making the first leg is at the air interface between a mobile station and one of said network elements. This modification can be performed in software by adhering to mobile telecommunications standards. This modification would benefit the system by allowing it to work in a mobile environment.

10. Claims 28 and 29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 11/149,180 in view of Freeberg (US 5,987,018).

This is a provisional obviousness-type double patenting rejection.

Regarding claim 28 of the instant application, 11/149,180 claim 10 teaches all the limitations of the claim except transmitting the flow control using in-channel signaling.

Freeburg teaches transmitting flow control / ACKs using an in-channel / inband signaling (inband, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination of 11/149,180 claim 10 by transmitting the flow control information using in-channel / inband signaling. This modification can be performed according to standards devised for in-band signaling. This would allow the system to transmit the signaling information on the same channel as the data and thus conserve bandwidth.

Regarding claim 29 of the instant application, 11/149,180 claim 10 teaches all the limitations of the claim except transmitting the flow control using out-of-traffic-channel signaling.

Freeburg teaches transmitting flow control / ACKs using an out-of-traffic/band channel signaling (out-of-band, col. 8 lines 51-53).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of 11/149,180 claim 10 by transmitting the flow control information using out-of-band signaling. This modification can be performed according to standards devised for out-of-band signaling. This would benefit

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the system by not restricting data flow by having the data share a channel with the flow control information.

Response to Arguments

11. Applicant's arguments, see pg. 13-15 filed 11/9/2005, with respect to all independent claims have been fully considered and are persuasive. The rejection of the claims have been withdrawn.

Allowable Subject Matter

12. Claims 5, 8, 9, 12, 21, 25, 26, and 30 are allowed.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RA
Ronald Abelson
Examiner
Art Unit 2666

Ron Abelson
